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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION

In re:
TULARE LOCAL HEALTHCARE
DISTRICT dba TULARE REGIONAL
MEDICAL CENTER,
Debtor.

Case No.: 17-13797-9-B
Chapter 9
DC No.: WW-1

**DECLARATION OF MARSHALL B.
GROSSMAN IN OPPOSITION TO
MOTION FOR AUTHORIZATION TO
REJECT EXECUTORY CONTRACT
(HEALTHCARE CONGLOMERATE
ASSOCIATES, LLC)**

1 I, Marshall B. Grossman, hereby declare as follows:

2 1. I am a Partner at Orrick, Herrington & Sutcliffe LLP, attorneys for Healthcare
3 Conglomerate Associates, LLC ("HCCA") in the above-captioned proceeding. I make this
4 declaration in opposition to debtor Tulare Local Healthcare District dba Tulare Regional Medical
5 Center's (the "District") Motion to Reject Executory Contract (Healthcare Conglomerate
6 Associates, LLC). I have personal knowledge of the facts in this declaration, and I could and
7 would testify competently to them under oath if called as a witness.

8 2. With respect to HCCA, it (and in some cases the District) has been sued in
9 purported tax payer lawsuits filed during the August to October 2017 time period. With respect
10 to this litigation, I have had a number of conversations with Marty Lockwood, the head of claims
11 for the third party insurer, Beta Risk Management Authority ("Beta"). He, and Beta's counsel,
12 Mr. Carlo Cappelletti of Nossaman LLP, have informed me that tenders of defense are to be made to
13 the District, and if the tender has been accepted, then Beta will provide the defense. Beta's only
14 condition to providing the defense, according to these individuals, is that the defendant and the
15 District agree that there is no right to defense or indemnity if it is found that the member (here,
16 HCCA) acted with fraud, corruption or actual malice, at which point there would be no coverage.

17 3. HCCA has agreed to this condition and I have communicated it to counsel for the
18 District, Mr. Tim Thompson of McCormick Barstow, LLP.

19 4. The District has yet to accept the tender or agreement with the condition as set by
20 Beta, to which HCCA has already agreed.

21 5. On at least four occasions, I have asked Mr. Thompson or his colleagues at
22 McCormick Barstow to accept the tender, but as of this date, they have refused to do so or
23 provide any reason, other than it is still under consideration.

24 6. As a result, I estimate that HCCA has incurred some \$20,000 in legal fees and
25 costs in the defense of these lawsuits to date. These are funds which would otherwise be
26 available to HCCA for other purposes.

27 7. Although the amount is relatively modest at this stage, the conduct of the hostile
28

1 Board members of the District is consistent with their practice of not missing an opportunity to
2 deny HCCA much needed funds at this point in time.

3 8. On or about September 18, 2017, I attended a hearing at the Tulare County
4 Superior Court in the matter of *The People of the State of California v. Richard Torrez, et al.*
5 (Case No. 271086). At the hearing, the court denied the District’s ex parte application to compel
6 the production of documents.

7

8 I declare under penalty of perjury under the laws of the State of California and these United
9 States that the foregoing is true and correct.

10 Executed this 17th of October, 2017, at Los Angeles, California.

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13 MARSHALL B. GROSSMAN
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